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**UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF CALIFORNIA
 SACRAMENTO DIVISION**

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12 In Re:	Case No.: 15-21575-A-11
13 BR Enterprises, a California general	DC No.: n/a
14 partnership	
15 400 Redcliff Drive, Redding, CA 96002	Date: November 2, 2015
TIN: xx-xxx3256	Time: 10:00 a.m.
	Judge: McManus
	Courtroom: 28; Dept A
	Place: 501 I Street, 7th Floor
	Sacramento CA 95814

16 Debtor(s).

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**DECLARATION OF RANDY FITZPATRICK IN SUPPORT OF
 OBJECTION BY REDDING BANK OF COMMERCE TO
 CONFIRMATION OF DEBTOR'S FIRST AMENDED
 CHAPTER 11 PLAN OF REORGANIZATION [SEPTEMBER 10, 2015]
 [11 U.S.C. § 1129]**

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I, Randy Fitzpatrick, declare as follows:

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1. I have personal knowledge of, or have reviewed the books, files and records which have been maintained in the ordinary course of business of the Bank which validate the matters set forth in this declaration, except as to those matters set forth on information and belief, which I believe to be true. If called upon, I am competent to testify as to the matters set forth in this declaration, and would testify in accordance with this declaration.

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1 2. I am the Vice President and Special Assets Officer of Redding Bank of Commerce (“the
 2 Bank”), which is a secured creditor in the bankruptcy case of BR Enterprises, a California general
 3 partnership.

4 3. I have been employed by the Bank since May 27, 2014. I have been employed as a banker
 5 for over thirty years. I have over fifteen years experience in commercial lending, and over fifteen years
 6 experience in special assets, which is the administration and collection of problem loans.

7 4. Debtor and its general partner Antonio Rodriguez, Jr. (also sometimes referred to as Antonio
 8 Rodriguez II), the father of Rod III, who is now Debtor’s managing general partner, have had a long
 9 debtor-creditor relationship with the Bank, which included loans extended by the Bank to Debtor and
 10 to entities related to Antonio Rodriguez.

11 5. As of July 31, 2013, the Rodriguez-controlled entities of JSR Properties, a California
 12 corporation (“JSR”), Shasta Enterprises, a California general partnership (“Shasta”), and BR Enterprises,
 13 a California general partnership (“BR”), were obligated to the Bank as follows:

14 **Loan No. xxx8578:**

15 Borrower: JSR Properties, a California corporation (“JSR”)
 16 Guarantor: Antonio Rodriguez, II
 17 Collateral: 1st Deed of Trust - 202 Hemsted Drive, Redding, CA 96002

18 This loan was evidenced by a promissory note dated May 16, 2008, in the original principal
 19 amount of \$2,850,000.00, and related loan and security documents. As of July 15, 2013, the
 20 unpaid principal and accrued interest owing Bank under Loan No. 3158578 totaled
 21 \$2,775,389.73. To the extent applicable, late fees, default interest, collateral appraisal fees, and
 22 attorneys fees are not included in such computation. As of July 31, 2013, this loan was in
 23 payment default, and the Bank had elected to demand payment in full.

24 **Loan No. xxx7725:**

25 Borrower: Shasta Enterprises, a California general partnership
 26 Guarantor: none
 27 Collateral: 1st Deed of Trust - 3611 Avtech Parkway, Redding, CA 96002

28 This loan was evidenced by a promissory note dated March 5, 2008, in the original principal
 29 amount of \$3,375,000.00, and related loan and security documents. As of July 15, 2013, the
 30 unpaid principal and accrued interest owing Bank under Loan No. 3157725 totaled
 31 \$3,393,468.75. To the extent applicable, late fees, default interest, collateral appraisal fees, and
 32 attorneys fees are not included in such computation. An installment payment was due on
 33 February 1, 2013, and Loan No. 3157725 was due in full March 1, 2013 without acceleration,
 34 and thus this loan was in default. In addition, the terms of this loan provided that at Bank’s
 35 option, this loan may be declared in default upon default in any other loans extended by Bank,
 36 and Bank previously exercised such option and demanded payment in full.

37 **Loan No. xxx7822:**

38 Borrower: Shasta Enterprises, a California general partnership

1 Guarantor: none
 2 Collateral: 1st Deed of Trust - 3688 Avtech Parkway, Redding, CA 96002

3 This loan was evidenced by a promissory note dated March 5, 2008, in the original principal
 4 amount of \$2,100,000.00, and related loan and security documents. As of July 15, 2013, the
 5 unpaid principal and accrued interest owing Bank under Loan No. 3157822 totaled
 6 \$1,988,963.08. To the extent applicable, late fees, default interest, collateral appraisal fees, and
 7 attorneys fees are not included in such computation. Absent acceleration by reason of default,
 8 Loan No. 3157822 matured March 1, 2018. An installment payment was due on February 1,
 9 2013, and on the same day of each month thereafter, and thus Loan No. 3157822 was in default.
 10 In addition, the terms of this loan provided that at Bank's option, this loan may be declared in
 11 default upon default in any other loans extended by Bank, and Bank previously exercised such
 12 option and demanded payment in full.

13 **Loan No. xxx5328:**

14 Borrower: Shasta Enterprises, a California general partnership
 15 Guarantor: none
 16 Collateral: 1st Deed of Trust - 250 Hemsted Drive, Redding, CA 96002

17 The loan is evidenced by a promissory note dated July 14, 2006, in the original principal amount
 18 of \$6,000,000.00, and related loan and security documents. As of July 15, 2013, the unpaid
 19 principal and accrued interest owing Bank under Loan No. 4175328 totaled \$5,352,141.34. To
 20 the extent applicable, late fees, default interest, collateral appraisal fees, and attorneys fees are
 21 not included in such computation. Absent acceleration by reason of default, Loan No. 4175328
 22 matures July 1, 2016. An installment payment was due on April 1, 2013, and on the same day
 23 of each month thereafter, and thus Loan No. 4175328 was in default. In addition, the terms of
 24 this loan provide that at Bank's option, this loan may be declared in default upon default in any
 25 other loans extended by Bank, and Bank previously exercised such option and demanded
 26 payment in full.

27 **Loan No. xxx1153:**

28 Borrower: Shasta Enterprises, a California general partnership
 29 Guarantor: none
 30 Collateral: 1st Deed of Trust - 355 Hemsted Drive, Redding, CA 96002

31 The loan is evidenced by a promissory note dated December 10, 2009, in the original principal
 32 amount of \$1,125,000.00, and related loan and security documents. As of July 15, 2013, the unpaid
 33 principal and accrued interest owing Bank under Loan No. 3161153 totaled
 34 \$1,125,458.53. To the extent applicable, late fees, default interest, collateral appraisal fees, and
 35 attorneys fees are not included in such computation. Absent acceleration by reason of default,
 36 Loan No. 3161153 matured January 1, 2020. An installment payment was due on February 1,
 37 2013, and on the same day of each month thereafter, and thus Loan No. 3161153 was in default.
 38 In addition, the terms of this loan provide that at Bank's option, this loan may be declared in
 39 default upon default in any other loans extended by Bank, and Bank previously exercised such
 40 option and demanded payment in full.

41 **Loan No. xxx1161:**

42 Borrower: Shasta Enterprises, a California general partnership
 43 Guarantor: none
 44 Collateral: 1st Deed of Trust - 381, 391 & 393 Hemsted Drive, Redding, CA 96002

45 The loan is evidenced by a promissory note dated December 10, 2009, in the original principal
 46 amount of \$1,000,000.00, and related loan and security documents. As of July 15, 2013, the
 47 unpaid principal and accrued interest owing Bank under Loan No. 3161161 totaled
 48 \$1,022,966.17. To the extent applicable, late fees, default interest, collateral appraisal fees, and

1 attorneys fees are not included in such computation. Absent acceleration by reason of default,
 2 Loan No. 3161161 matured October 1, 2017. An installment payment was due on February 1,
 3 2013, and on the same day of each month thereafter, and thus Loan No. 3161161 was in default.
 4 In addition, the terms of this loan provide that at Bank's option, this loan may be declared in
 5 default upon default in any other loans extended by Bank, and Bank previously exercised such
 6 option and demanded payment in full.

7 **Loan No. xxx0610:**

8 Borrower: BR Enterprises, a California general partnership

9 Guarantor: none

10 Collateral: 1st Deed of Trust - Cottonwood Creek Ranch, 20500 Lake California Drive,
 Cottonwood, CA 96022

11 This loan is evidenced by a promissory note dated September 3, 2009, in the original principal
 amount of \$5,461,984.00, and related loan and security documents. As of July 15, 2013, the
 unpaid principal and accrued interest owing Bank under Loan No. 3160610 totaled
 \$5,406,189.56. To the extent applicable, late fees, default interest, collateral appraisal fees, and
 attorneys fees are not included in such computation. Absent acceleration by reason of default,
 Loan No. 3160610 matures May 1, 2016. An installment payment was due on March 1, 2013,
 and on the same day of each month thereafter, and thus Loan No. 3160610 was in default. The
 Bank previously notified BR of such default, and demanded payment in full.

12 6. As of July 31, 2013, all of the loans extended by the Bank to the Rodriguez-controlled entities
 13 were in default, and such borrowers were facing foreclosure by the Bank. JSR, Shasta and BR, all then
 14 controlled by Rod Jr., desired to liquidate the real property securing such loans in an orderly fashion,
 15 rather than by foreclosure. Such entities and the Bank thus negotiated and entered into a comprehensive
 16 loan restructuring and workout, which provided the Rodriguez-controlled entities a forbearance period
 17 of up to June 30, 2014 to repay the Bank's loans such as by sales or refinancing, and a reduction of the
 18 interest rate on such loans to 1.0% during the forbearance period. In exchange, and as additional
 19 collateral for all the loans, BR agreed to grant the Bank a first priority deed of trust and assignment of
 20 rents encumbering approximately 2,600 acres of undeveloped real property located in Tehama County,
 21 California, generally located just south of BR's Sunset Hills subdivision (the "2,600 Acres" or the
 22 "Additional Collateral").

23 7. On or about August 16, 2013, the Bank and BR entered into a comprehensive Loan
 24 Restructure & Workout Agreement ("the BR Restructuring"). In addition, both Rod Jr. and Rod III
 25 individually signed the BR Restructuring. A true and correct copy of the BR Restructuring accompanies
 26 this Objection as Exhibit "A".

27 8. On or about August 16, 2013, the Bank and JSR entered into a comprehensive Loan
 28 Restructure & Workout Agreement ("the JSR Restructuring"). In addition, Rod Jr. individually signed

1 the JSR Restructuring. A true and correct copy of the JSR Restructuring accompanies this Objection
 2 as Exhibit "B".

3 9. On or about August 16, 2013, the Bank and Shasta entered into a comprehensive Loan
 4 Restructure & Workout Agreement ("the Shasta Restructuring"). Both Rod Jr. and his wife Lorraine
 5 Rodriguez signed the Shasta Restructuring. A true and correct copy of the Shasta Restructuring
 6 accompanies this Objection as Exhibit "C".

7 10. On or about September 6, 2013, Rod II and Rod III, as the general partners of BR, executed
 8 and delivered to the Bank the deed of trust contemplated by the BR Restructuring, the JSR Restructuring
 9 and the Shasta Restructuring. That deed of trust encumbering the 2,600 Acres was recorded with
 10 Tehama County on September 12, 2013, and a true and correct copy of the as-recorded Deed of Trust
 11 accompanies this Objection as Exhibit "D".

12 11. On August 12, 2013, Shasta paid off Loan No. xxx7522 by selling 3688 Avtech Parkway,
 13 the real property which was the primary collateral for such loan. On October 22, 2013, Shasta paid off
 14 Loan No. xxx7725 by selling 3611 Avtech Parkway, the real property which was the primary collateral
 15 for such loan. As a consequence of these two payoffs, the forbearance period under the Shasta
 16 Restructuring, the JSR Restructuring and the BR Restructuring was extended through June 30, 2014.

17 12. Thereafter, none of the remaining loans to the Rodriguez-controlled entities referenced above
 18 were repaid, and thus the Bank initiated foreclosure and other collection remedies.

19 13. Facing foreclosure and other collection actions, Shasta filed a Chapter 11 reorganization with
 20 this court on October 31, 2014 [Case No. 14-30833-A-11]. Upon the Bank's motion, Hank M. Spacone
 21 was appointed as Chapter 11 Trustee and continues to so serve.

22 14. Facing foreclosure, JSR filed a Chapter 11 reorganization with this court on November 26,
 23 2014 [Case No. 14-31675-A-11]. Upon the Bank's motion, the case was dismissed on February 4, 2015.

24 15. Facing foreclosure, BR filed this Chapter 11 reorganization on February 27, 2015.

25 16. On June 25, 2015, I authorized counsel for the Bank to file two proofs of secured claim with
 26 this Court. The Court assigned Claim Nos. 7 and 8 to the proofs of claim.

27 17. Claim No. 7, in the amount of \$1,835,627.73, is based on Loan No. xxx0610, evidenced by
 28 a promissory note dated September 3, 2009 executed by BR in favor of the Bank ("the Cottonwood

1 Creek Ranch Loan"). The primary collateral for the Cottonwood Creek Ranch Loan is approximately
 2 279 acres of irrigated pasture land immediately adjacent to the 14-acre parcel upon which the personal
 3 residence and stables of Rod II and Lorraine (also owned by BR) are located. Pursuant to the BR
 4 Restructuring, the 2,600 Acres is additional collateral for the Cottonwood Creek Ranch Loan.

5 18. Claim No. 8, which was filed in the amount of \$1,360,715.58, is based on the accumulated
 6 deficiencies, both actual and projected, resulting following the sale or other liquidation of the primary
 7 collateral securing the loans to JSR, Shasta, and BR, which deficiencies are secured by the 2,600 Acres
 8 pursuant to the BR Restructuring, the JSR Restructuring, and Shasta Restucturing and the deed of trust
 9 encumbering the 2,600 Acres [Exhibit "D"]. A true and correct copy of Claim No. 8 accompanies this
 10 Objection as Exhibit "E". At the time it was filed, Claim No. 8 was partially based on estimated
 11 deficiency claims, with interest accrued at the various non-default interest rates provided by the
 12 promissory notes.

13 19. Since the filing of Claim No. 8, the actual deficiency has been determined for Shasta's Loan
 14 No. xxx1153 [secured by 355 Hemsted] and for Shasta's Loan No. xxx1161 [secured by 381-401
 15 Hemsted] as a consequence of the Bank's foreclosures.

16 20. When Claim No. 8 was filed, no deficiency was estimated for Shasta's Loan No. Xxx5328,
 17 based upon the appraised value and the then payoff balance. However, the appraised value was based
 18 upon a building with 100% occupancy, and the building has been one-third vacant for many months.
 19 In addition, the payoff balance has grown significantly, as the "adequate protection" payments tendered
 20 from the Shasta bankruptcy estate do not cover interest accrual. Thus, it is possible that a deficiency
 21 balance may be established upon the sale or other liquidation of 250 Hemsted.

22 21. At present, the Bank does not anticipate a deficiency balance will result from the sale or
 23 other liquidation of Cottonwood Creek Ranch which is the primary collateral for BR's Loan No.
 24 xxx0610.

25 22. As of November 2, 2015, the accumulated deficiency claim of the Bank as represented by
 26 Claim No. 8 and secured by the 2,600 Acres will be in excess of \$1,800,000, assuming that 250 Hemsted
 27 is valued at \$5,700,000, as noted on the Accumulated Deficiency Claim Calculation which accompanies
 28 this Opposition as Exhibit "F".

1 23. Debtor's proposed Plan of Reorganization does not provide for any post confirmation
2 payments of interest for application to the Accumulated Deficiency Claim represented by Proof of Claim
3 No. 8. Debtor's plan does provide for up to 24 months following the Effective Date for payment in full
4 of Claim No. 7. Assuming that the Effective Date will be approximately December 5, 2015, the
5 Accumulated Deficiency Claim, calculated using the default rate of interest provided by the various
6 promissory notes would grow to in excess of \$3,770,000 by December 5, 2017, but for the cap of
7 \$2,600,000 the Bank agreed to in the BR Restructuring, the JSR Restructuring and the Shasta
8 Restructuring.

9 24. If the Accumulated Deficiency Claim as were calculated using the non-default interest rates
10 provided in the various promissory notes, it would grow to in excess of \$2,500,000 as of December 5,
11 2017.

12 25. If the Accumulated Deficiency Claim as were calculated using the 4.5% interest rate which
13 BR's Plan of Reorganization proposes for the Bank's Claim No. 7, it would grow to in excess of
14 \$2,144,000 as of December 5, 2017.

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16 I declare under penalty of perjury under the laws of the State of California that the foregoing is
17 true and correct. Executed at Redding, California.

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19 Dated: 10 - 19 - 2015



Randy Fitzpatrick

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